



THE STATE BAR OF CALIFORNIA

Date: October 24, 2012

To: Members, Appointments and Nominations Committee (NAC)

From: Karen Hagelund, Appointments Administrator

Re: Overview of Annual Appointment Review Process

BACKGROUND

The Board of Trustees has charged the Nominations and Appointments Committee (NAC) with the review of non-disciplinary appointment recommendations to State Bar sub-entities and external groups.

The appointment process is cyclical, with the board review determined by the term's end date and the board's meeting schedule. Most appointments must be made between March and July, and therefore, the bulk of the NAC appointment review will occur during these months.

Except for outreach issues and policy discussions, the appointment issues for NAC are conducted in closed session. Only the Board of Trustees is authorized to make the appointments, and every appointment is confidential until the full Board makes the appointment. In addition, the fact that someone applied for appointment is confidential. Information concerning applications is released only to those involved in the appointment process such as board members and authorized committee members and staff.

State Bar committee appointments are governed by the Board's appointment policies and procedures (Attachment 5, Tab 15 of Board Book) and by statutory provisions. The appointments to external groups are governed by the policies of the external organization and by Board policy.

Attached are the list of State Bar and external entities (Attachment 1), a chart of key dates and deadlines for the coming year (Attachment 2), and the application brochure and form published at the State Bar website (Attachments 3 and 4).

TYPES OF APPOINTMENTS

A. Interim Appointments

Interim appointments are appointments to fill unexpected mid-year vacancies and they differ from regular appointments in that the terms of become effective immediately and retain the original expiration dates of the members being replaced (i.e., those appointed to these positions fill only the remaining portion of the term). The vacancies are generally due to members who've

resigned or declined an appointment. Interim appointments occur throughout the year, but the most appear on the November and March agendas.

Generally, about 6% of the State Bar committee members are unable to continue to serve or to make the time commitment because of a change in job or personal circumstances. Depending on the specific circumstances, for these appointments, Board policy permits committees to recommend an applicant from the most recent applicant pool or a newly recruited applicant. Applicants filling unexpired terms of one year or less are eligible for reappointment to a full three-year term.

Historically, interim appointments have been considered on the consent agenda unless there are policy issues to be considered or a board member requests discussion of the item.

B. Annual Appointments to Standing, Special and Section Executive Committees

February 1 is the annual application deadline for most standing, special and section executive committees (approximately 44 committees). All applications and letters of recommendation must be submitted to the Appointments Office for processing. The applications, instructions and policies are distributed to the individual committees for their review no later than March 1.

Committee Review March- April. For most committees, either the committee's leadership and/or a nominating sub-committee initially review the applications. The committees review all aspects of the application, weighing the qualifications of the applicant, the letters of recommendation, the committee's requirements and needs for the coming year, and the Board's policies regarding appointment.

Each committee chair submits a ranking of the new applicant pool and a letter to NAC describing the committee's nominations for officers, reappointments (if any), and new members. Upon receipt of the committee's recommendation, staff reviews the nominations for potential policy conflicts (e.g., same firm, prior service, discipline, or nomination to more than one committee) prior to distribution to NAC for review.

C. Annual Appointments Requiring Application Ranking by NAC Members

Pursuant to adopted procedures, NAC reviews and ranks applicants for six entities. The entities and time frame for the application review are as follows:

<i>Entity</i>	<i>NAC Application Review</i>
American Bar Association (ABA) House of Delegates	mid-February 2013
Judicial Council	mid February 2013
Committee of Bar Examiners (CBE)	May -June 2013
Commission on Judicial Nominees Evaluation (JNE):	June -July 2013
Review Committee, JNE Commission (RJNE)	June -July 2013
LAP Oversight Committee	June -July 2013

NAC members typically have two to three weeks after receiving the applications to review and rank the applications for the above entities. The rankings are submitted to the Appointments Office and then compiled for discussion and final action at the next NAC meeting. In addition, for

CBE, JNE, and LAP, the board committee may conduct interviews of the chair and vice chair candidates, preferably in conjunction with a committee or board meeting. Specific procedures for these entities are noted below.

- **ABA House of Delegates:** ABA and Board policies govern these appointments.

Available positions: In 2013, the terms of five delegates will expire. Pursuant to board policy, three of the five delegates, including the young lawyer delegate, will be eligible for reappointment. The application deadline is February 1, 2013. All applicants must file an application, including incumbents seeking reappointment.

The ABA House of Delegates (HOD) is the policy-making body of the ABA, and pursuant to the ABA rules, the State Bar of California appoints 11 delegates. The delegates serve staggered two-year terms. The State Bar does not reimburse its delegates for any expenses associated with their service in the ABA House of Delegates. The State Bar's delegates are part of the California delegation, which consists of approximately 24 other delegates appointed by ten local bar associations, ABA sections and divisions, and former officers and board members. The head of the California delegation is the elected State Delegate. Each year for the board committee's appointment review, the State Delegate submits a letter addressing the performance of the Bar's delegates and their suitability for reappointment.

NAC members will receive the applications in mid-February, along with the written recommendation from the State Delegate. Members will have approximately two weeks to review and rank the applicants. At its March meeting, NAC will discuss the rankings and make its final recommendation to submit to the Board for action in March.

- **Judicial Council:** The Judicial Council is a state constitutional agency that provides policy direction to the courts, the Governor, and the Legislature concerning court practice, procedure and administration. The Judicial Council is composed of the Chief Justice; one associate justice of the Supreme Court, three justices of the Court of Appeal, ten judges of the superior courts; four lawyer members appointed by the State Bar Board of Trustees; one member appointed by the legislative leaders from each house of the Legislature, two nonvoting court administrators, and other nonvoting positions as determined by the council.

The four current State Bar's appointments to the council are: Angela J. Davis, James Fox, Edith Matthai and Mark P. Robinson.

Available Positions: In 2013, the State Bar will have one appointment to make (replacing Edith Matthai). The application deadline is February 1, 2013.

NAC members will have approximately two weeks to review and rank the applicants. At its March meeting, NAC will discuss the rankings. Depending on the results of the initial rankings, NAC may decide to conduct applicant interviews. Should interviews be deemed necessary, they would normally be conducted prior to, or at, the May meeting, and NAC would make its final recommendation to the Board at the May meeting.

The lawyer member appointed by the State Bar is usually invited to attend the Judicial Council's June meeting, and the official orientation generally occurs at the council's August meeting. The lawyer member's three-year term begins September 15, 2013.

- **CBE:** The CBE leadership and NAC both rank the CBE applications. In the spring, CBE reviews the applications pursuant to its established process and submits a written

recommendation to NAC. NAC members receive the CBE recommendation along with the applications, usually following the May board meeting. NAC members typically will have 2-3 weeks to review the applications and submit their rankings. The rankings from the NAC members and CBE are combined and discussed at the NAC July meeting. The number of CBE vacancies varies between one and four positions each year.

Available Positions: In 2013, there will be two lawyer member vacancies on CBE. Applicants must be in active practice and cannot be employed as a law school administrator or professor or associated with a bar review company. The application deadline is February 1, 2013.

CBE Officer Candidates: The chair and vice chair candidates submit their names for consideration in the spring. Unlike other committees, the vice chair does not necessarily go on to serve as chair. If there are multiple candidates for the positions, the CBE chair and selected NAC members will conduct the interviews and report a recommendation to NAC at the July meeting.

The interviews are normally conducted in conjunction with the June/July CBE meeting or the July Board meeting. By Board policy, one member of NAC is a liaison to CBE, and this person normally assists with the officer interviews.

- ***Judicial Nominees Evaluation (JNE) Commission:*** The JNE commission consists of up to 38 members. Terms are one year and the members normally serve three one-year terms. The annual JNE Orientation meeting, held in late January or early February, is mandatory for all new members and attendance is a condition of appointment.

Available positions: In 2013, at least 11 positions will be open for new members, plus eight alternate positions. Approximately 27 first and second-year commissioners will be eligible for reappointment. The application deadline is June 1, 2013.

JNE Leadership Review: Each year by June 1, the commissioners receive an evaluation from the JNE leadership (chair, vice chair and staff director) as to their performance and suitability for reappointment to an additional term. Also in early June, the JNE leadership reviews the new applications. JNE typically receives 30-50 new applications. The JNE leadership will advise NAC of its reappointment recommendations and will also submit a written recommendation with its ranking of the new applicants.

NAC Review: Usually in late June, NAC members will receive JNE's written recommendation for the appointments along with the applications. The tasks for the NAC members are: 1) to confirm if they support the reappointment recommendation from JNE, and 2) to rank the new applicants, weighing the JNE recommendation, the needs of the commission for the coming year and the qualifications of the applicants. The NAC members submit their rankings in advance of the July meeting.

The results of the ranking are presented to NAC for discussion at the July meeting. The JNE leadership is invited to the July meeting to participate in the board committee's discussion. Following discussion, NAC votes on the final rankings and also selects the JNE chair and vice chair. The proposed slate is submitted to the full board for action in July.

JNE Officer Candidates: The chair and vice chair candidates submit their names for consideration in early June. Historically, the JNE vice chair goes on to serve as chair, with the vice-chair year focused on writing the JNE candidate summaries (aka blurbs) and chair training. While the vice-chair is usually the only candidate for chair, there can be multiple candidates for vice chair. NAC members typically conduct the officer interviews in early or mid-July and report their recommendation to the full board committee at the July meeting. If possible, the interviews are conducted in conjunction with a JNE meeting or the July board meeting. By Board policy, one member of NAC is also a board liaison to the JNE Commission; this person usually assists with the officer interviews.

- **JNE Review Committee:** Current JNE rules provide for the appointment of a five-member Review Committee (RJNE) to review requests for reconsideration of the JNE Commission rating of "not qualified." The five members of RJNE consist of one former JNE commissioner, two at-large members, one lawyer member of the Board of Trustees, and one public member of the Board of Trustees. The committee focuses its investigation on possible violations of the rules of procedures; the committee does not evaluate the qualifications of the candidate. Members serve staggered three-year terms, and the most senior member typically serves as the chair in his or her third year.

Available Positions: In 2013, NAC will consider the chair appointment and one member appointment. The member seat must be filled by a former JNE commissioner whose last year of service on JNE was between November 2010 and April 2012. The application deadline is June 1, 2013.

- **Lawyer Assistance Program (LAP) Oversight Committee:** LAP terms are set by statute at four years and terms are renewable. All terms commence January 1 and expire December 31. Because the committee membership must meet specific criteria set by statute and because of the extensive learning curve, members serve multiple terms. The State Bar appoints six of the 12 members, the Governor appoints four members and the Senate Rules Committee and the Assembly Speaker each appoint a member. Generally, there are one or two appointments each year; all applicants, including incumbents applying for reappointment, must submit the current State Bar appointment application.

Available Positions: In 2013, the terms of the two lawyer members expire. One lawyer position must meet the lawyer-in-recovery criteria. The application deadline is June 1, 2013.

Officer Candidates: Currently, the committee has a chair, but the vice chair seat remains open. If there is more than one candidate for chair or vice chair, NAC may conduct officer interviews. If there is only one candidate for chair or vice chair, the interviews may be waived.

D. Other Appointments

- **Fee Arbitration Panel and Presiding Arbitrator** (*appointments made at the November meeting*): Each November, NAC also considers the appointments and reappointments to the Bar's Fee Arbitration Department, including the Presiding Arbitrator. The Fee Arbitration Department consists of approximately 400+ volunteer lawyer and non-lawyer

arbitrators. The arbitrators serve one-year renewable terms, ending December 31. Each arbitrator must meet the minimum qualifications for an arbitrator throughout his or her tenure as an arbitrator. The Committee on Mandatory Fee Arbitration recruits volunteers for the department throughout the year, and a few new appointments generally are made at every meeting.

■ ***External Organizations***

NAC also monitors the annual or bi-annual appointment recommendations for certain external organizations whose bylaws or rules require that the State Bar appoint one or more of its members. The appointments to these groups are governed by the by-laws and policies of the external organization. These organizations are noted below:

- California Bar Foundation Board of Directors (scheduled for the November 2012 meeting)
- Center for Civic Education Board of Directors
- Law School Council
- Legal Services Programs Boards of Directors:
 1. California Indian Legal Services (CILS)
 2. California Rural Legal Assistance (CRLA)
 3. Legal Aid Foundation of Los Angeles (LAFLA)
 4. Legal Aid Society of Orange County (LASOC)
 5. Legal Services of Northern California (LSNC)

E. Awards

Each year, the California Young Lawyers Association (CYLA), the Standing Committee on Delivery of Legal Services, the Council on Access and Fairness, and the Witkin panel solicit nominations for annual awards recognizing outstanding achievements of individual California lawyers, law firms, and/or bar associations. Every three years, the Committee on Professional Responsibility and Conduct solicits nominations for its professional responsibility award. The awards are presented at the Awards Ceremony at the Annual Meeting. Between January and May, each group solicits nominations, reviews the nomination materials, and selects the recipients. Most award nominations are considered by NAC and the Board at the July meetings. The names of those nominated for the awards and the names of the recipients are confidential until the Board formally approves the selections. The current awards are:

- **Diversity Awards**

These annual awards recognize exemplary efforts by an attorney, law firm and bar association to increase diversity in the legal profession. The Council on Access and Fairness solicits nominations and selects recipients.
- **Education Pipeline Award**

This annual award recognizes an education pipeline program that increases student awareness about the judicial system and promotes careers in the law. The Council on Access and Fairness solicits nominations and selects the recipient(s).

- Jack Berman Award
This annual award recognizes the achievements in public service of a young lawyer or a lawyer who is in their first five years of practice. CYLA solicits nominations and selects the recipient.
- Loren Miller Legal Services Award
This is an annual lifetime-achievement award for a lawyer who has demonstrated long term commitment to legal services and who has personally done significant work in extending legal services to the poor. The Standing Committee on Delivery of Legal Services solicits nominations and selects the recipient.
- President's Pro Bono Awards (Standing Committee on Delivery of Legal Services)
These annual awards recognize outstanding pro bono contributions by California attorneys in a variety of practice settings. The Standing Committee on Delivery of Legal Services solicits nominations and selects the recipients.
- Harry Sondheim California Professional Responsibility Award
This award recognizes a member's outstanding contribution to the advancement of attorney professional responsibility standards in California. Every three years, the Committee on Professional Responsibility and Conduct solicits nominations and selects the recipient.
- Witkin Medal of Honor (Witkin Selection Panel)
This annual award recognizes both lawyers and non-lawyers whose outstanding contributions and achievements have enriched the legal profession and exalted the science of jurisprudence. The Witkin Selection Panel, appointed by the State Bar President, selects the recipient.